

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Khammesherma Smith,)	
)	C.A. No. 6:22-2256-HMH-KFM
Plaintiff,)	
)	
vs.)	OPINION & ORDER
)	
Antonio Hickman; Supervisor Davis;)	
Valerie Saber; P. Gunter,)	
Defendants.)	

This matter is before the court on Khammesherma Smith’s (“Smith”) untimely objections, which the court construes as a motion to alter or amend the judgment pursuant to Rule 59(e) of the Federal Rules of Civil Procedure. For the reasons set forth below, the court denies the motion.

On September 27, 2022, United States Magistrate Judge Kevin F. McDonald recommended dismissing this action without prejudice, without further leave to amend, and without issuance and service of process. (R&R, ECF No. 26.) Objections to the Report and Recommendation were due by October 11, 2022. Smith did not file objections to the Report and Recommendation. After receiving no objections, the court adopted the Report and Recommendation and dismissed this action in an order dated October 25, 2022. (Order, ECF No. 28.) Smith filed the instant motion to alter or amend the judgment on October 27, 2022.¹ (Mot. Alter or Amend, ECF No. 31.)

¹ Houston v. Lack, 487 U.S. 266 (1988).

A motion to alter or amend the judgment under Rule 59(e) may be made on three grounds: “(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.” Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). “Rule 59(e) motions may not be used, however, to raise arguments which could have been raised prior to the issuance of the judgment” Pac. Ins. Co. v. Am. Nat’l Fire Ins. Co., 148 F.3d 396, 403 (4th Cir. 1998). “In general reconsideration of a judgment after its entry is an extraordinary remedy which should be used sparingly.” Id. (internal citation and quotation marks omitted).

Upon review, Smith does not identify any intervening change in controlling law, new evidence, or clear error of law in the court’s earlier judgment. Based on the foregoing, the court finds that Smith has made no showing of error in the court’s order. Therefore, Smith’s motion is denied.

It is therefore

ORDERED that Smith’s motion to alter or amend the judgment, docket number 31, is denied.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
November 8, 2022

NOTICE OF RIGHT TO APPEAL

The Movant is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.